



# Adult Restitution

## Pursuant to Penal Code § 1202.4



### **Restitution Fine/Formula** **PC § 1202.4(b)(2) and (d)**

In setting a fine in excess of the minimum, the defendant shall bear the burden of proving an inability to pay. Determination of ability to pay includes the defendant's future earning capacity. The court shall consider any relevant factors when setting the fine amount including the seriousness and gravity of the offense, any economic gain, and the extent to which the victim(s) suffered. Express findings bearing on the amount of the fine are not required.

**Fines above the minimum may be determined by using the following formula:**  
**\$200 x years sentenced x felony counts**

### **Enforceable as a Civil** **Judgement** **PC § 1214(a) and (b)**

Restitution fines and orders imposed pursuant PC § 1202.4, et seq. shall be enforceable as a civil judgment. Victims shall have access to all resources available under the law to enforce the restitution order.

### **Timely Payment** **PC § 1203.3**

The time and manner of probation may be modified for timely payment of restitution.

### **Parole Restitution Fine** **PC § 1202.4(b)** **PC § 1202.45**

If sentencing involves a period of parole, the court shall order a second restitution fine per PC §1202.45 at the same amount of the first. The second fine will be suspended unless parole is revoked.

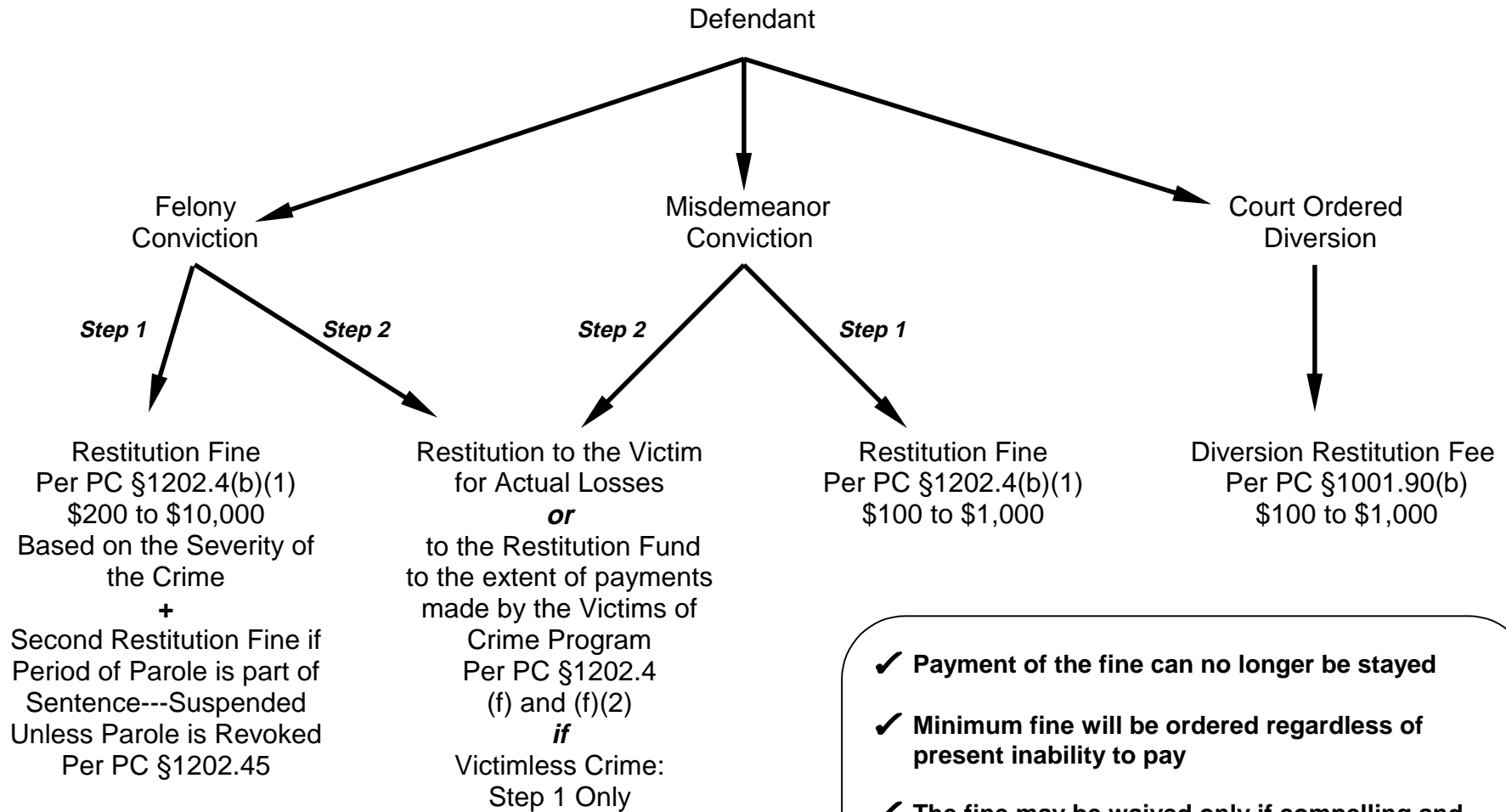
#### **Restitution Fine:**

- \$200 - \$10,000 for a felony conviction - Subdivision (b)(1)
- \$100 - \$1,000 for a misdemeanor conviction - Subdivision (b)(1)
- ➔ The minimum will be ordered regardless of inability to pay - Subdivision (c)
- ➔ Payment of the fine *cannot* be stayed
- ➔ The fine may be waived *only* if the court finds compelling and extraordinary reasons and states those reasons on the record - Subdivision (c)
- ➔ Inability to pay *is not* a compelling and extraordinary reason for waiving the fine- Subdivision (c)
- ➔ A separate hearing for the fine is not required- Subdivision (d)
- ➔ If sentenced to probation, payment of the fine shall be a condition - Subdivision (m)

#### **Restitution Order:**

- To the victim or to the State Restitution Fund to the extent the victim received assistance from the Victims of Crime Program - Subdivisions (f) and (f)(2)
- ➔ Inability to pay *is not* a compelling and extraordinary reason for waiving the order- Subdivision (g)
- ➔ The order may be reduced/waived *only* if the court finds compelling and extraordinary reasons and states those reasons on the record - Subdivision (g)
- ➔ If the amount of losses are unknown at the time of sentencing, the amount shall be determined at the direction of the Court - Subdivision (f)
- ➔ The court may modify the amount, on its own motion or on the motion of the district attorney, the victim or victims or the defendant – Subdivision (f)(1)
- ➔ If sentenced to probation, payment of the order shall be a condition - Subdivision (m)

# Adult Restitution



- ✓ Payment of the fine can no longer be stayed
- ✓ Minimum fine will be ordered regardless of present inability to pay
- ✓ The fine may be waived only if compelling and extraordinary reasons are stated on the record
- ✓ The order may be reduced/waived only if compelling and extraordinary reasons are stated on the record